

# STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF DRINKING WATER

## 2006 DWSRF CAPITALIZATION GRANT APPLICATION and INTENDED USE PLAN



**STATE OF UTAH  
DIVISION OF DRINKING WATER  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**2006 DWSRF INTENDED USE PLAN**

---

**TABLE OF CONTENTS**

- A - DRINKING WATER STATE REVOLVING FUND (DWSRF)
  - 1. Plan Introduction
  - 2. Loan Program
  - 3. Set-Asides
  
- B - INTENDED USE PLAN
  - 1. Summary, Financial Status and Goals
  - 2. Loan Program
  - 3. Set-Asides
  
- C - ATTACHMENTS
  - 1. Project Priority List (full list)
  - 2. Attorney General Enabling Legislation Opinion Letter
  - 3. Organization Chart
  
- D - UTAH ADMINISTRATIVE CODE RULE R309-705
  - Rule for Projects Receiving Assistance from the Federal DWSRF
  - Loan Program is available at [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)

## **Section A: Drinking Water State Revolving Fund (DWSRF)**

### **A-1 Plan Introduction:**

The national Drinking Water State Revolving Fund (DWSRF) program established by the Safe Drinking Water Act (SDWA) Amendments of 1996, authorizes the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn may provide low-cost loans and other types of assistance to eligible public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements. States are also authorized to set-aside a portion of their capitalization grants to fund a range of activities including administration, technical assistance, source water protection, capacity development, and operator certification.

The Utah Legislature enacted Utah Code Annotated (UCA) 19-4-101 et seq. establishing the Utah Safe Drinking Water Board. UCA 19-4-104 empowers the Board with rule making authority to meet the requirements of federal law governing drinking water. UCA 19-4-105 establishes the Division of Drinking Water which is tasked with the responsibility to administer UCA 19-4-101 et seq. The Utah Drinking Water Board has promulgated rules for making loans incorporating the requirements of the federal Safe Drinking Water Act at Utah Administrative Code R309.705. Additionally, the Board is authorized by UCA 19-4-104(1)(a)(v) and 19-4-104(2) to promulgate rules for certification of operations and governing capacity development in compliance with Section 1419 and 1420 of the federal Safe Drinking Water Act.

The Utah Drinking Water Board, an eleven-member board appointed by the Governor, develops policies and procedures for program implementation and authorizes loans under the DWSRF. The Utah Department of Environmental Quality through the Division of Drinking Water directly administers the DWSRF program. The Division of Drinking Water's primary DWSRF activities include administering loans and managing and coordinating the fund.

The Division receives assistance and support from the Department of Environment Quality's Office of Support Services, the State Division of Finance, the State Attorney General's Office and the State Treasurer's Office. The salaries and benefits of the employees, as well as indirect costs based on direct salary costs, are charged to the DWSRF program. Employees charging time to the DWSRF program are covered by the State of Utah personnel benefits plan. The DWSRF program is charged a loan administration fee by the Division of Finance.

The DWSRF program requires the States to deposit to the loan fund an amount equal to at least 20 percent of the capitalization grant. Loan repayments made by assistance recipients return to the loan fund and provide a continuing source of financing.

The first year of funding by USEPA was federal fiscal year 1997. The following table summarizes awards received by the Division of Drinking Water, the allocation between loan and set-aside funds and the required state 20% match.

Table 1 Summary of DWSRF Grants June 30 2005								
Federal Fiscal Year	Award Date	Total Amount	%	Award Allocation Loan Fund		Set-Aside Funds		State 20% Match
				Amount	%	Amount	%	
1997	February 9, 1998	\$ 12,558,800	100%	\$ 9,755,575	77.7%	\$ 2,803,225	22.3%	\$ 2,511,760
1998	September 20, 1999	7,121,300	100%	5,633,100	79.1%	1,488,200	20.9%	1,424,260
1999	May 1, 2000	7,463,800	100%	6,019,720	80.7%	1,444,080	19.3%	1,492,760
2000	August 21, 2000	7,757,000	100%	6,515,880	84.0%	1,241,120	16.0%	1,551,400
2001	September 7, 2001	7,789,100	100%	6,542,844	84.0%	1,246,256	16.0%	1,557,820
2002	July 20, 2002	8,052,500	100%	6,384,100	79.3%	1,668,400	20.7%	1,610,500
2003	August 11, 2003	8,004,100	100%	6,473,444	80.9%	1,530,656	19.1%	1,600,820
2004	July 6, 2004	8,303,100	100%	6,724,604	81.0%	1,578,496	19.0%	1,660,620
2005	June 16, 2005	8,285,500	100%	6,709,820	81.0%	1,575,680	19.0%	1,657,100
	Total	\$ 75,335,200	100%	\$ 60,759,087	80.7%	\$ 14,576,113	19.3%	\$ 15,067,040
2006	Application	8,228,900	100%	6,583,120	80.0%	1,645,780	20.0%	1,645,780

The allotment between States is based on state needs surveys. The amount awarded to the State of Utah in each of the fund years was one percent, the minimum allocation. Utah has request and been awarded its annual allocation through federal fiscal year 2005.

The State Auditor, in compliance with the provisions of the Single Audit Act, audits the Drinking Water DWSRF accounts. Drinking Water accounts are also subject to review and audit by USEPA, the Office of the Inspector General. DWSRF Funds are included in Utah's Comprehensive Annual Financial Report (CAFR), which uses the modified accrual bases of accounting. Because Funds are combined the Drinking Water assets, liabilities, and net assets are not identifiable in Utah's CAFR.

The State is required to submit an annual Intended Use Plan (IUP) to EPA as long as the Fund or set-aside accounts remain in operation.

The Division of Drinking Water under the direction of the Drinking Water Board (Board) administers the loan and set-aside programs.

DWSRF program and procedures that are not expected to change annually are described in the Operating Agreement.

## A-2 Loan Program:

The loan program funds low-cost loans and other types of assistance to publicly owned and privately owned community water systems and non-profit non-transient water systems to finance the costs of infrastructure projects. States are responsible for developing a priority system that identifies how projects will be ranked for funding and a list of projects, in priority order, that are eligible for funding. A description of the criteria and the method used for distribution of loan funds is outlined in Utah Administrative Code R309-705

### Loans Program Eligibility Requirements

1. Repayment must begin no later than one year after completion of the project.
2. Loan repayment must be complete no later than 20 years after the completion of the project. A disadvantaged community loan may have up to 30 years as long as the period of the loan does not exceed the expected design life of the project.
3. A minimum of 15% of all dollars credited to the Loan Fund must provide loans to small systems, those that serve fewer than 10,000 persons.
4. Up to 30% of federal grants can be used for principal forgiveness for communities meeting the State's "Disadvantage" criteria. The Drinking Water Board has defined Disadvantaged Communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns or where the established annual cost of drinking water service to the average residential user exceeds 1.75% of the median adjusted gross income.

### Interest and Fees

1. Federal rules section 1452 allows the state to assess interest and/or fees. Fees are calculated and paid in the same manner as interest. Fees have fewer restrictions than interest. The Utah Drinking Water Board has authorized by Rule the establishment of a fund (or account) into which the proceeds of annual fees be placed.
2. Interest payments are deposited to the same loan fund as principal payments and have the same restrictions.
3. Currently, hardship fees are only authorized for providing grants to water systems through the State SRF loan program.
4. The Drinking Water Board has established a rule for the collection of a Technical Assistance fee. These funds will be used to finance technical assistance for eligible water systems. This fee is part of the "effective rate" calculated using Table 2, R309-705-6. Utah Rule R309-705-4 defines an SRF Technical Assistance Fund which means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.

The Technical Assistance Fund will provide low interest loans for technical assistance, and any other eligible purpose as defined by Section 1452 of the Safe Drinking Water Act (SDWA) Amendments of 1996, to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

The Rule allows the Board to do the following:

1. The Board may establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".
2. The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis; the same as the annual interest and hardship grant assessment are assessed. The borrower will pay the fee annually when paying the principal and interest or hardship grant assessments
4. The Board may set/change the amount of the fee from time to time as they determine meets the needs of the program.
5. This fee will be part of the "effective rate". This fee will not be charged in addition to said effective rate. After the effective rate has been calculated for the loan using Table 2, the technical assistance fee will be subtracted from it. The difference will be assessed as the hardship grant assessment or interest rate.
6. The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the SDWA Amendments of 1996.

#### State fund Drinking Water Loan Program:

The Division of Drinking Water also operates a State funded Drinking Water Assistance Program. The State program provides Utah the flexibility to put together loan packages without the restrictions that accompany the DWSRF program. The Federal DWSRF required State 20% match is generated from the State loan program.

### A-3 Set-Asides:

In addition to loan assistance to eligible public water systems, the DWSRF program also emphasizes the prevention of drinking water contamination by allowing States to reserve a portion of their grant to fund activities that encourage enhanced water system management and source water protection. The funded activities are referred to as set-aside funds. Set-aside activities include:

- 1) Up to four percent of the allotment to administer the Drinking Water SRF and provide technical assistance to public water systems;
- 2) Up to ten percent of its allotment for state program management activities, including administration of the State public water system supervision program, administration of the source water protection program, development and implementation of the capacity development and operator certification programs. This set-aside requires a dollar-for-dollar match. The match is provided from State general funds.
- 3) Up to two percent of its allotment to provide technical assistance to small public water systems;
- 4) Up to 15 percent of its capitalization grants to assist in the development and implementation of local drinking water protection initiatives and other State programs.

## **SECTION B - INTENDED USE PLAN:**

### **B-1 Summary, Financial Status and Goals:**

The State has agreed to prepare an Intended Use Plan (IUP) as long as the loan fund and/or set-aside funds remain in operation describing how the State will use all funds available to the capitalization grant, including funds that will be allocated to the set-asides. Specifically, the IUP describes how we plan to use available funds. Funds are received from the Federal capitalization grants, the State match, loan repayments including interest and fee payments, and investment earnings.

The State is applying for the 2006 Drinking Water SRF appropriation in the amount of \$8,228,900. \$6,583,120 will be added to the loan fund and \$1,645,780 to the set-aside program. The federally mandated 20% state match of \$1,645,780 will be funded from the Drinking Water State loan program.

#### **The Intended Use Plan (IUP) includes:**

- 1) Specifics on how the Board proposes to use the FFY 2006 DWSRF appropriation;
- 2) A description of the goals of the DWSRF program;
- 3) A list of projects eligible to receive DWSRF funding, which identifies those serving less than 10,000 people;
- 4) Cost estimates for listed projects;
- 5) An estimate of funds anticipated to be available for financial assistance;
- 6) Criteria for selecting projects to receive financial assistance;
- 7) Criteria for determining which communities qualify for hardship status;
- 8) The project scoring and ranking system.

#### **Short and Long-Term DWSRF Goals:**

The DWSRF program will help ensure Utah's drinking water supplies remain safe and affordable, and drinking water systems are properly operated and maintained. The objectives of the DWSRF program include ensuring the public health, achieving compliance with SDWA, and assisting systems to provide affordable drinking water.

##### **Short Goals:**

###### **Loan Program:**

- To assist prospective borrowers during facility planning and preparation of their project funding applications, make funding recommendation to the Drinking Water Board, and assist during project construction.

###### **Set-Aside:**

- 1) Continue funding for the Enhance PWSS program.
- 2) Continue funding and to expand the Operator Certification program
- 3) Continue funding and to expand the source protection program
- 4) Continue funding for DWSRF administrative needs
- 5) Educate and support water suppliers with their water protection (counter-terrorism) efforts.

#### Long-Term Goals for the Loan Funds and the Set-Aside Funds

- 1) To provide a permanent source of funding which can be used in combination with financing from a community's own resources and other funding sources to assist in financing needed drinking water projects. The Federal SRF funds, the State 20% match, loan repayments, interest payments and earnings on the invested cash balance provide funding.
- 2) To evaluate and prioritize drinking water needs with-in the state to allow funds to be distributed in a priority manner
- 3) To protect public health
- 4) To help public water suppliers achieve and maintain compliance with Federal and State drinking water standards.
- 5) To enhance long-term water system viability
- 6) To assist public water suppliers to improve drinking water quality and dependability by providing SRF loans to applicants in greatest need.
- 7) Educate and support water suppliers with their water protection (counter-terrorism) efforts. Drinking Water has an EPA grant for this purpose however, if additional funds are required State general funds and/or DWSRF set-aside funds might be used.

#### **Transfer and Cross-Collateralization of Funds between the DWSRF and CWSRF:**

Section 302 of the SDWA authorizes the transfer up to 33 percent of the amount of a fiscal year's DWSRF program capitalization grant to the CWSRF program or an equivalent amount from the CWSRF program to the DWSRF program. There has been no transfer of funds and no transfers are anticipated.

#### **Withholding of Funds:**

EPA will withhold funds under the following provisions:

1. Unless the State has authority to ensure all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. Utah Code Annotated 19-4-104 empowers the Drinking Water with rule making authority to meet the requirements of Federal law governing drinking water.
2. The State is not developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.
3. The State has not adopted and is not implementing a program for certifying operators of community and nontransient, noncommunity public water systems.

EPA's has approval of the State's operator certification program.

#### **Meaningful Public Review of the IUP:**

The IUP was published on the Drinking Water web site, [www.drinking water.utah.gov](http://www.drinking water.utah.gov). Notice of the posting and request for public comment was included on the Drinking Water Board March meeting agenda, which is mailed to approximately 300 interested



individuals and agencies asking for review and comments. In addition, copies were mailed to the Governor's Office of Planning and Budget, the Utah League of Cities and Towns, and the Rural Water Association of Utah. Comment may be made in writing addressed to the Drinking Water Board at 150 North 1950 West, PO Box 144830, Salt Lake City, Utah 84114-4830 or in person at a regular scheduled Board meeting. The next regularly scheduled Board meeting is March 3, 2006. No comments were received.

**Financial status:**

Initial capitalization for the Utah DWSRF program was provided from the 1997 Federal Capitalization Grant and state matching dollars. For the eight years, 1997 through 2005, DWSRF capitalization grants totaled \$75,826,127. \$60,759,087 was added to the loan program and \$14,576,113 was used in the set-aside programs. The State 20% match for the six-year period of \$14,576,113 was added to the loan program. Through January 31, 2006 the Board has authorized 38 projects totaling \$75,033,246. Thirty-two projects totaling \$64,156,246 have been closed (committed) and six projects totaling \$10,877,000 have been authorized by the Board but have not been closed (not committed). Revenue, disbursements and balances are shown in the financial statements. The DWSRF finance flow chart is included at Part C.

We are applying for \$8,228,900 the amount allocated to the State of Utah for FFY 2006. \$6,583,120 will be provided to the loan fund and \$1,645,780 to set-asides. The state 20% match of \$1,645,780 will be added to the loan fund.

Table 2 Capitalization Grant and State Match Requests FFY 2006		
	Amount	Percentage
Loan Fund	\$ 8,228,900	100.0%
Set-asides		
Administration	329,156	4.0%
State Program Management : (requires dollar for dollar match)		
Program Augmentation	664,890	8.1%
Source Protection	78,000	0.9%
Capacity Development	0	
Operator Certification	80,000	1.0%
Total State Program Management	822,890	10.0%
Small System technical Assistance	164,578	2.0%
Local Assistance and Other State Programs	329,156	4.0%
Set-aside total	1,645,780	20.0%
Capitalization Grant Totals	8,228,900	100.0%
State 20% Match	\$1,645,780	20.0%
State Program Management 1 for 1 match from general funds	\$822,890	10.0%

## B-2 Loan program:

Rule R309-705 establishes criteria for financial assistance to public drinking water systems in accordance with the Federal Safe Drinking Water Act. A copy of Rule R309-705 is attached. The 2006 DWSRF capitalization grant along with carry forward funds, repayments, interest and fee payments, and investment earnings provides the funds the Division has available to help public water systems finance needed drinking water projects.

A short list of anticipated projects requiring funding is listed below in Table 3(at the top of the priority list). The complete priority list is included as an attachment.

The first section lists projects authorized by the Drinking Water Board but the loan has not been closed. EPA does not consider the loan as committed until the loan documents are signed. Section two lists projects staff is working on to present to the Board for their consideration.

As conditions change, the Board may reassess project readiness, and choose to delay funding to those the Board considers “not ready to precede” rule R309-705-6.

Priority Points	<b>Table 3</b> <b>Federal SRF Loans</b> <b>Project Priority List - (partial list)</b> <b>January 2006</b>						
	System Name	County	Pop.	Project Title	Project Total	Request	Funds Auth
<b>Authorized but not yet closed.</b>							
<b>100.0</b>	Washington Co Disaster	Washington	60,000+	Source & Piping Restoration	\$1,300,000	\$1,000,000	
<b>54.3</b>	Twin Creeks SSD	Wasatch	54	Source Redev, Treat., Stor., Distr	\$700,000	\$450,000	\$450,000
<b>36.3</b>	St. George	Washington	50,000	Arsenic Treatment of Gunlock Wells	\$21,550,000	\$10,000,000	\$6,000,000
<b>28.8</b>	Logan City	Cache	44,970	DeWitt Sprgs Transmission Line	\$9,200,000	\$9,200,000	\$3,345,000
<b>25.7</b>	Snowville Water Co.	Box Elder	177	New Well, Storage, Dist. Impr	\$1,115,000	\$650,000	\$650,000
<b>19.2</b>	Croydon Pipeline Co	Morgan	60	New Well	\$250,000	\$250,000	\$327,000
<b>15.6</b>	Woodland & Kolob Acr	Wash.	?	Stg Tank, Pipeline, Pumphouse, Rights	\$296,700	\$296,700	\$450,000
<b>14.0</b>	Portage Town	Box Elder	276	Spring development, stg tank & waterline	\$1,535,000	\$1,535,000	\$1,090,500
<b>Scored.</b>							
<b>37.3</b>	Centerfield	Sanpete	794	Storage, New Well & Trans./Dist. Pipe	\$1,580,600	\$1,580,600	
<b>33.3</b>	Tooele Co Sp Service Dist	Tooele		Source, Trans, Treatment, & Storage	\$500,000	\$365,000	
<b>29.5</b>	Pine Meadow Mutual Water Co	Summit	?	new well, tank, dis line, rehab well	\$3,000,000	\$2,850,000	
<b>26.9</b>	Skyline Mountain SSD	Sanpete	?	Spring Dev. Storage, Distribution	\$517,666	\$428,166	
<b>22.5</b>	Alta Town	Salt Lake	367	Treatment (Antimony)	\$531,300	\$425,000	

**Description of Criteria and Method Used for Distribution of Loan Funds:**

The complete description of the criteria and method used for distribution of funds is outlined in Utah Administrative Code (UAC) R309-705-6. As described in R309-705-6, the priority system assigns points to systems showing a deficiency in source, storage, treatment, and/or the distribution system. Points are assigned based on the relative risk of each deficiency, and are divided as applicable between health risk and compliance with SDWA. The applicant's priority points are modified by a financial factor, known as the Rate Factor, and the AGI Factor. Their calculation is shown below:

Priority rating = (Average number of points received) X (Rate Factor) X (AGI Factor)

Where: Rate Factor = (Average System Water Bill / Average State Water Bill)

AGI Factor= (State Median AGI/ System Median AGI)

The priority points for demonstrated deficiencies are multiplied by the Rate Factor and AGI Factor to arrive at a final priority rating. This method addresses financial hardships caused in less affluent communities and in those already experiencing higher water rates.

Upon arriving at a final priority rating for each applicant, each application is rated and added to the priority list. The Board may, at its option, modify a project's priority rating based on the conditions described in R309-705.

The Board sets the effective interest and/or hardship and/or technical assistance rate. The most current Revenue Bond Buyer Index (RBBI) is used as the base rate. Table 2 in UAC R309-705-6 is used to determine the reduction of the interest rate (or other rate) and potentially may be reduced to zero percent.

**Assistance for Disadvantaged Communities:**

Section 1452 (d) allows the state to provide additional loan subsidies to benefit communities meeting the State's definition of "disadvantaged" provided that for each fiscal year the total amount of loan subsidies may not exceed 30 percent of the amount of the capitalization grant for the year.

The Utah Drinking Water Board defines Disadvantaged Communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from Federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the board may accept other measurements of the water users income (i.e. local income survey or questionnaire when there is significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

The amount and type of financial assistance offered by the Board will be based upon the criteria shown in R309-705-6 (2). Disadvantaged communities may receive zero-percent

loans, negative interest rate loans, or principal-forgiveness loans. Terms for each method of financial assistance shall be determined by Board resolution.

The Board has not set any pre-determined amount of DWSRF funds that may be used for principal forgiveness to disadvantaged communities.

**Costs Incurred After Application and Prior to Execution of the Loan Agreement:**

Eligible project costs incurred after application to the Drinking Water Board and prior to execution of the loan agreement are eligible for reimbursement. Reimbursement will only be made after the loan closing.

**Municipal Bond Legal Fees:**

The Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of a recognized municipal bond counsel selected by the Drinking Water Board R309-705-8 (2). The loan recipient is responsible for the legal costs. Legal costs may be paid from the loan proceeds.

**Capacity Development Requirements:**

Eligible Systems: The Safe Drinking Water Act (SDWA) allows DWSRF assistance to publicly and privately owned community water systems and nonprofit non-community water systems other than systems owned by Federal agencies. Federal Regulations also set forth certain circumstances under which systems that will become community water systems upon completion of a project may be eligible for assistance. State Administrative Rule R309-705 "Financial Drinking Water Project Revolving Loan Program. (Effective January 1, 2004) establishes criteria for financial assistance to public drinking water system in accordance with a federal grant 42 U.S.C. 300j et seq., Federal Safe Drinking Water Act. The SDWA requires that loan recipients must demonstrate the technical, financial and managerial capacity (TFM) to comply with the SDWA and not be in significant noncompliance with any requirement of a national primary drinking water standard or variance. The State will assess TFM and compliance in accordance with State Administrative Rules for Public Drinking Water Systems R309-352 Capacity Development Program after loan applications have been received. Those systems lacking in TFM or compliance may still be eligible for a loan if the loan will address the non-compliance or the system agrees to undertake feasible and appropriate changes in operations

**Environmental Reviews and Categorical Exclusions:**

The State Environmental Review Process (SERP) is described in the Operating Agreement.

The Grantee, the State of Utah, may elect to partition an environmental review or Categorical Exclusion (Cat Ex) from environmental review. The procedures listed below will be followed by the State in order to evaluate if partitioning a project from environmental review is appropriate.

A. Authority:

The authority for including these procedures in the Division's Intended Use Plan (IUP) and State Environmental Review Process (SERP) is contained in the Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) and the guidance provided by the EPA Drinking Water State Revolving Fund Program Guidelines, document # 816-R-97-005 (February 1997). In particular, see Section IV. STATE/PROJECT LEVEL AUTHORITIES, Subsection B. Environmental Reviews.

B. Procedures for Making Determination Cat Ex:

1. If the Division has reason to believe that the project falls within one of the categories listed under paragraph "C" and thereby may qualify for a Cat Ex from environmental review, the State will make a preliminary survey of the proposed project site(s).
2. During this survey the State will evaluate whether or not the project meets the criteria for a Cat Ex from environmental review.
3. If the State determines the site qualifies for Cat Ex from environmental review, it will document the justification of this determination, including a listing of the dates of activities, which led to this determination, and a statement of relevant findings.
4. Even if the project qualifies for Cat Ex from environmental review according to the criteria listed under paragraph "C", the State may require an environmental review if the State determines that an environmental review is warranted or appropriate because of conditions found at the site or because the project is controversial.

C. Criteria for Categorical Exclusion From Environmental Review:

In order for a project to qualify for an environmental determination of Cat Ex from environmental review, the general location of the project should have been previously disturbed. Site conditions which will be evaluated in making this determination include a) how urbanized the location is, b) whether wildlife has previously been displaced, and c) whether the wildlife habitat has been previously destroyed or replaced. The project site shall meet at least one of the following criteria:

1. A proposed water line will be placed in a roadway(s) and/or rights-of-ways where existing pipes, telephone wires, cables, or other facilities have previously been installed.
2. A proposed tank site will be located on a site with other previously constructed utility facilities on a previously disturbed site.
3. The proposed facilities will be located at a site with other existing community infrastructure; e.g. a booster station, pump house, water treatment plant, or similar facility within a previously disturbed area and which will not extend into sensitive areas in the ground or adjacent to the previously disturbed area.

D. Public Notice and Participation:

The State will provide public notice when a Cat Ex is issued or rescinded. However, no formal public comment period need be provided prior to the Cat Ex becoming effective.

**B-3 SET-ASIDES:**

Table 4 Set-Aside Requests FFY 2006		
	Amount	Percentage
Capitalization Grant Totals	\$8,228,900	100.0%
Set-asides		
Administration	\$329,156	4.0%
State Program Management : (Requires dollar for dollar match)		
Program Augmentation	664,890	8.1%
Source Water Protection	78,000	0.9%
Capacity Development	0	
Operator Certification	80,000	1.0%
Total State Program Management	822,890	10.0%
Small System technical Assistance	164,578	2.0%
Local Assistance and Other State Programs	329,156	4.0%
Set-Aside Total	\$1,645,780	20.0%

The state will not use set-aside funds for those projects or project-related costs that are eligible or explicitly ineligible for assistance from the Fund except the State may use set-aside funds for, 1) project planning on design costs for small systems, and 2) for costs associated with restructuring a system as part of a capacity development strategy.

The State Program Management set-aside requires a dollar for dollar match. The other set-asides do not have a match requirement. Up to 10% may be allocated to State Program Management set-aside. At least half of the State Program Management match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. The State is authorized to use the amount of State funds it expended on its PWSS program in fiscal year 1993 as a credit toward meeting its match requirement. The value of this credit can be up to but not greater than 50 percent of the amount of the match that is required. The State will have no difficulty in meeting the required match.

Set-aside funding is used to:

- Fund established programs
- Fund continuing growth

Fund increasing operating costs

And to the extent set-aside funds are available, assist in funding the additional staff needed to implement new Federal rules regarding regulation of drinking water contaminants

Set-aside funds are used on first awarded first used bases. Usage is accounted for by set-aside. Unused funds are carried forward to the next fiscal year. Set-aside funds allocated from the Federal 2006 grant will be used in state fiscal years 2007 and after.

The intended use of set-aside funds:

Maintain the staff (FTEs) hired with set-aside funds including benefits, costs allocated as a percent of personal services, and other related costs.

Continue our contract with the Rural Water Association of Utah to implement portions of the expanded operator certification and capacity development programs.

Continue our contracts with the twelve local health departments to conduct sanitary surveys.

#### **Set-aside requests and intended use:**

Administration set-aside:

We are requesting the \$329,156 the maximum (4% X \$8,228,900), we estimate a carry-forward to SFY 2006 of \$1,436,687. The administration set-aside will fund three to four full-time equivalents (FTEs) position to operate the program SFY 2006. The budgeted estimate to fund salary, benefits, office space, equipment, travel, training, supplies, and the indirect allocation for SFY 2006 is \$285,000. We continue to budget the full 4% assuming there will be a need for these funds in future years. The administration set-aside does not require a state dollar for dollar match.

State Programs set-aside:

We are requesting \$822,890 the maximum (10% x \$8,228,900) divided to the sub-categories as listed on Table 4 (above). The sub-categories include PWS Supervision, Capacity Development, Operator Certification, and Source Protection. Budgeting, disbursements, and draws are accounted for by sub-categories.

The State Program set-aside requires a dollar for dollar state match. The dollar for dollar match requirement is separate and in addition to the 20 percent match added to the loan program. We are able to meet the required dollar for dollar match using the current year State general fund allotment and, if need, the credit allowed by section 1452 (g) (2) for fiscal year 1993 PWSS expenses.

PWS Supervision (augmentation) set-aside:

We are requesting \$664,890 from the 2006 grant; we estimate a carry-forward to SFY 2006 of \$2,296,000. Expenditures for SFY 2006 are estimated at \$839,400. This set-aside requires a dollar for dollar match.

We are requesting a transfer of \$65,000, from the 2000 and 2001 grants, from Capacity Development to the PWS Supervision set-aside. This transfer is between PWS Supervision

sub-categories and does not change the amount allocated to the State Programs set-aside. The Capacity Development set-aside is over funded, if the transfer is not made it will take several years to disburse the carry forward balance. Staff payroll charges to the Capacity Development set-aside were greatly reduced following the completion of the Regional Capacity Development studies.

The PWS Supervision set-aside provides the necessary resources for the Division of Drinking Water to continue performing basic core functions such as sanitary surveys, plan reviews, compliance monitoring, groundwater source protection, and many other facets of public health protection. Growth impacts in the state combined with the adoption of the 1986 SDWA amendments and other State and Federal regulations create a tremendous workload. The PWS Supervision set-aside funds are used to help support the additional staff. Approximately fourteen (14) FTE are supported by the PWS Supervision set-aside. In addition to the staff funding the PWS Supervision set-aside funds:

1. We have contracted with the Rural Water Association of Utah to provide two FTEs to do data input, and secretary type work to free-up scientist and engineers from filing, data input, and other non-professional duties. Funds from the PWS Supervision set-aside are used to fund a portion of the contract employees cost.
2. The State of Utah contracts with the twelve local health departments (LHD) to conduct sanitary surveys. \$76,300 is funded from the PWS Supervision set-aside and the balance is from State general funds.
3. The cost of a Data Processing programmer is funded by the PWS Supervision set-aside to assist with continued development and implementation of SDWIS.

#### Capacity Development Program:

We are requesting \$0 from the 2006 grant. We are also requesting \$65,000, allocated from the 2000 and 2001 grants to the Capacity Development set-aside, be transferred to the PWS Supervision set-aside. This transfer will be between sub-categories and does not change the amount allocated to the State Programs set-aside. The Capacity Development set-aside is over funded, if the transfer is not made it will take several years to disburse the carry forward balance.

The estimate carry-forward, after the \$65,000 transfer, is \$29,370. Annual expenses will be between \$10,000 and \$13,000. This set-aside requires a dollar for dollar match.

The State of Utah has statutory authority for a capacity development program (Section 19-4-104 of the Utah Safe Drinking Water Act). Time of one FTE, as needed, will oversee and maintain the program. The Division is current with all reports due to the Governor and USEPA.

#### Operator Certification Program:

The State has an Operator Certification program that has been mandatory since 1985. Prior to 1997 the program required community water systems serving more than 800 population and any public water systems treating surface water to have a certified operator. The statutory authority to reduce the threshold population from 800 to 25 was enacted by the 1997 Legislature. The new Safe Drinking Water Act requires all community and non-transient, non-community water systems and all public water systems that treat surface water to have a



certified operator. As a result of lowering the mandatory threshold from 800 to 25, the number of water systems requiring certification has tripled. The most significant changes to the rules regarding have been:

- 1) certified operators for systems serving a population less than 800
- 2) operator's grade level
- 3) grandparent certification

These new guidelines were implemented by the State of Utah on February 1, 2001. Water systems had until February 1, 2003 to comply with the new rule.

USEPA published final Guidance (EPA-816-R-98-006) in July 1998 establishing national policy regarding the implementation of the operator certification related provisions of the SDWA including how EPA would assess State operator certification program for purposes of making withholding decisions.

USEPA has approved the State's operator certification program.

To assist with the cost of training operators and to reimburse operators for training expenses USEPA awarded the Division an \$867,000 grant named "Operator Certification Training Grant". The availability of these funds has reduced the charges to the Operator Certification Program set-aside, but it is anticipated these funds will be mostly spent by the end of SFY 2006.

Funding for the Operator Certification program comes from three sources:

- 1) Fees
- 2) DWSRF Operator Certification set-aside
- 3) The Operator Certification Training Grant

We are requesting \$80,000 from the 2006 grant with an estimate carry forward of \$134,000. Expenditures for FY 2006 were budgeted at \$1,000. The Division contracts with the Rural Water Association annually to assist with operator certification training. The contract also funds staff training time and training supplies.

This set-aside requires a dollar for dollar match.

Source Protection Administration:

The SDWA Amendments of 1996 require states to develop and carry out a source water quality assessment program for all public water systems.

The time of one FTE is dedicated to developing, implementing, and coordinating this program.

We are requesting \$78,000 from the 2006 grant with an estimate carry forward of \$70,000. Expenditures for FY 2006 we're budgeted at \$75,200.

This set-aside requires a dollar for dollar match.

#### Small Systems Technical Assistance:

We are requesting \$164,578 the maximum allowed (2% x \$8,228,900) with a carry forward of approximately \$416,000. Expenses for 2006 are estimated at \$160,000. The Act allows up to a total of 2% of the allotment to provide technical assistance to public water systems serving 10,000 people or fewer (section 1452(g) (2)). All of the funds allocated to the Small System Technical Assistance set-aside are used to fund our contract with the Rural Water Association of Utah (RWAU).

The State uses the RWAU to assist the Division of Drinking Water to accomplish the following:

Arrange for and conduct one small group training per month involving 2-6 operators on the basic subjects covered in the Operator Certification Exam including: 1) Pumps and Motors, 2) Safety, 3) disinfection, 4) math, 5) Rules and 6) Operation and Maintenance. These training sessions will be 2 – 7 hours in length. Contractor agrees to print and mail announcements as well as arrange for the training sites and instructors.

Perform one-on-one contacts with water system operators training them on the basic subjects covered in the Operator Certification Exam and noted in areas 1-6 above. Each of these contacts will be from 2-6 hours in length and focus will be on those operators who have failed the certification exam, those with special learning needs, and those who have not yet certified.

Arrange for and conduct at least four Operator Certification training sessions to prepare operators to pass the Operator Certification Exam. These sessions will each be four days in length with the fourth day consisting of the exam. Two of these trainings will be held in conjunction with the Contractor's Annual and Northern Conferences.

On an on-going basis work on developing a self-study guide that can be distributed to and used by operators interested in studying on their own for the Operator Certification Exam.

Arrange for and meet with five different county commissions at their regularly scheduled meetings to provide information to commissioners regarding Source Protection, Capacity Development and other Safe Drinking Water Act issues as appropriate.

Provide one-on-one assistance in the field with water system personnel serving communities with a population less than 3,300, who need computer training and help in trouble shooting computer problems. Assist with understanding of consumer confidence reporting and how to develop the report. Assist water system personnel in learning and perfecting use of various pieces of software and database to improve water system operations.

Encourage and provide assistance to SNC (significant non-complier) type public water systems in applying for financial assistance from the Drinking Water Board in situation where this assistance will be helpful to the water system in returning to compliance with drinking water rules. As resources are available and as requested by the Drinking Water Board, assist water systems that have borrowed funds from the Drinking Water Board.

The Small Systems Technical Assistance set-aside does not require a state dollar for dollar match.

**Local Assistance and Other State Programs:**

We are requesting \$329,156 from the 2006 grant with an estimated carry forward of \$50,000. This will fund two and one-half FTEs for implementation of local drinking water protection initiatives (section 1452(k)).

The Local Assistance and Other State Programs set-aside does not require a state dollar for dollar match.

**C - ATTACHMENTS**

Project Priority List (full list)

Attorney General Enabling Legislation Opinion Letter

Organization Chart

**D - UTAH ADMINISTRATIVE CODE RULE R309-705**

Rule for Projects Receiving Assistance from the Federal DWSRF

Loan Program is available at [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)